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39 **UNITED STATES DISTRICT COURT**
40 **CENTRAL DISTRICT OF CALIFORNIA**
41 **SOUTHERN DIVISION**

42 *In re loanDepot Data Breach Litigation*

43 Case No.: 8:24-cv-00136-DOC-JDEX

44 This Document Relates to: All Cases

45 Assigned for All Purposes to:
46 Courtroom 10A; Hon. David O. Carter

47 **PLAINTIFFS' APPLICATION FOR**
48 **LEAVE TO FILE UNDER SEAL**
49 **CONFIDENTIAL SUPPLEMENTAL**
50 **AGREEMENT**

1 In accordance with Civil Local Rule 79-5.2.2(b), Plaintiffs submit the following
2 application for an order to file under seal the Confidential Supplemental Agreement to
3 the Class Action Settlement Agreement and Release, which concerns the threshold
4 number of opt-outs required in order to allow loanDepot to terminate the Settlement
5 Agreement (“Opt-Out Threshold”). A redacted version of the Confidential
6 Supplemental Agreement is not being filed with this Application as the entire
7 Confidential Supplemental Agreement is being filed under seal.

8 Good cause exists for the Court to grant this Application because the Parties
9 have agreed in the Settlement Agreement that the entire Confidential Supplemental
10 Agreement should be filed under seal with the Court, and disclosing this information
11 may ultimately lead to the potential for abuse. Importantly, numerous courts have
12 concluded that opt-out threshold information is irrelevant to class members. *See In re*
13 *Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 253 (D. Del 2002) (“The notice did
14 not need to include details such as . . . the confidential ‘optout’ threshold beyond which
15 defendant reserved the right to withdraw from the settlement” because it was
16 “irrelevant to members’ opt-out decision.”); *see also In re Remeron End-Payor*
17 *Antitrust Litig.*, 2005 WL 2230314, at *18 (D.N.J. Sept. 13, 2005) (concluding that
18 conditions under which a settlement can be terminated need not be disclosed because
19 they have “no legitimate bearing on a class member’s decision to opt-out of [a]
20 settlement, object, or file a claims form”); *Friedman v. Guthy-Renker, LLC*, 2016 WL
21 5402170, at *2 (C.D. Cal. Sept. 26, 2016) (explaining opt-out threshold information
22 may matter to “a small subset of persons” but nonetheless granting plaintiff’s motion
23 to seal such information due to the risk of abuse).

24 Similarly, the court in *In re Anthem, Inc. Data Breach Litig.*, 2017 WL 9614789,
25 at *2 (N.D. Cal. Aug. 25, 2017) granted the parties’ request to seal the Opt-Out
26 Threshold in that case, finding the following:

27 This Court and other courts have found that [opt-out
28 threshold] information is sealable in order to “prevent
third parties from utilizing [this provision] for the
improper purpose of obstructing the settlement and

1 obtaining higher payouts.” If revealed, this information
2 could lead to court files “becom[ing] a vehicle for
3 improper purposes.” Both class members and Defendants
4 have a strong interest in avoiding strategic conduct by
potential objectors in targeting a specific number of
optouts. Thus, the Court finds that compelling reasons
exist to seal this information

5 *Id.*; see also *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 948 (9th Cir.
6 2015) (affirming district court’s decision to approve class action settlement despite
7 objectors’ contention that the confidential opt-out provision of the settlement
8 agreement rendered the agreement unfair, noting that “[o]nly the exact threshold, for
9 practical reasons, was kept confidential”); *Spann v. J.C. Penney Corp.*, 314 F.R.D. 312,
10 329 (C.D. Cal. 2016) (concluding the “threshold level of opt-outs which, if reached,
11 permits JCPenney to withdraw from the Settlement Agreement . . . need not [be]
12 disclose[d] to the class” and can remain under seal).

13 Here, the risk of abuse is “particularly acute” given the size of the Parties’
14 settlement (\$25 million), as well as the fact that loanDepot is a well-known company.
15 *Spann*, 314 F.R.D. at 329–30 (holding that opt-out threshold need not be disclosed
16 because “the size of the settlement [\$50 million] and the fact that defendant is a well-
17 known company likely mean that this settlement will generate attention and interest
18 from many consumers and their attorneys”). Under these circumstances, “[p]ublicly
19 disclosing the opt-out threshold would practically invite professional objectors to
20 threaten the settlement by soliciting opt-outs.” *Friedman*, 2016 WL 5402170, at *2.

21 The Parties not only agreed to file the entire Confidential Supplemental
22 Agreement under seal, but Plaintiffs met and conferred with Defendants on November
23 27, 2024, prior to filing this Application, and informed Defendants of their intention to
24 seal the Confidential Supplemental Agreement. Defendants do not oppose this
25 Application.

26 Plaintiffs are filing this Application for Leave to File Under Seal in accordance
27 with Civil Local Rule 79-5.2.2(b), along with the Declaration of Daniel S. Robinson in
28 Support of Sealing, a [Proposed] Order, and an unredacted version of the Confidential

1 Supplemental Agreement filed under seal.

2 Dated: December 2, 2024

3 /s/ Daniel S. Robinson

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22 *Interim Co-Lead Counsel for Plaintiffs*

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on December 2, 2024, I caused the foregoing to be filed
3 electronically using the Court's electronic case filing (ECF) system, which will
4 automatically send a notice of electronic filing to the email addresses of all counsel of
5 record.

6 Dated: December 2, 2024

/s/ Daniel S. Robinson

7 Daniel S. Robinson

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